

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SIERRA BOUCHER, LILY ENGEBRECHT,
NATASSIA TUHOVAK, HANNAH WHELAN, and
CASSIDY WOOD,

Plaintiffs,

vs.

TRUSTEES OF CANISIUS COLLEGE,

Defendant.

**DECLARATION OF LINDA
WALLESHAUSER**

Civil Action Number
1:22-cv-00381-CCR

Linda Walleshauser, SPHR, SHRM-CP, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that:

1. I am Canisius College's Associate Vice President for Human Resources and Compliance, and in 2018-19 I also served as the College's interim Title IX Coordinator, in addition to overseeing its human resources and compliance functions.

2. I submit this Declaration based on my personal knowledge, and my involvement in the various interactions discussed herein.

My Receipt of Complaints About Professor Noonan

3. On Monday, January 28, 2019, I learned from Professors Susan Margulis and Elizabeth Hogan that they had been informed of student concerns about certain very recent behaviors of Professor Michael Noonan.

4. Professors Margulis and Hogan did not provide details as to the particular concerns that had been expressed to them, nor did they divulge any student's name to me at that time. They instead told me that the students had been strongly encouraged to come to the Title IX Office to

share their concerns, and the professors were meeting with me to facilitate the process in the event I received such reports.

5. This was the first instance in which I was informed there was any concern about Professor Noonan, who at that time was a tenured member of the College's faculty, and had been so for many years.

6. On Thursday, February 7, 2019, I received an email from plaintiff Natassia Tuhovak, requesting to meet with me and "discuss some concerns" she was having with "a professor." I was out of town and off campus that day, but I responded to Natassia within six minutes, and we scheduled a meeting for first thing in the morning on Monday, February 11, 2019 (the first day I would be back on campus).

7. Natassia emailed me again on Friday, February 8, 2019 stating that "other students" with "some concerns" wished to join our meeting. I told her they were welcome, and arranged for meeting space to accommodate them.

My February 11 Meeting with the Students and the Decision to Suspend Professor Noonan

8. On Monday, February 11, 2019 at 8 AM, I met with eight students to discuss their concerns; these eight students included all five plaintiffs. At this meeting, the students reported a variety of concerns about Professor Noonan's behavior, both in the classroom as well as on a recent trip he had led to India, which concluded in January 2019.

9. In general, the reported concerns of the students included the following:

- Inappropriate touching, including having female students assist him in stretching his leg;
- Adjusting the clothing of female students, such as tucking in bra straps at the shoulder area or assisting with microphone placements, prior to video recordings;
- Braiding the hair of certain female students;

- Discussing the process of using suppositories or enemas to assist students suffering from digestive difficulties, and offering to assist students with the placement and insertion of these health aids;
- Inappropriate discussions of the romantic lives of students, and occasional discussions of his own romantic life;
- Commenting about student appearances, and occasionally demeaning students; and
- Showing cultural insensitivity to certain members of the local citizenry on the India trip that recently had concluded.

10. This was the first time I had heard any of these concerns about Professor Noonan. They were quite disturbing, and among other things I reminded the students on February 11 of various supportive measures that the College could provide, such as mental health counseling and academic accommodations.¹ I also described in general terms the Title IX process at the College, making reference to our Sexual and Gender-Based Misconduct Policy that was posted on the Canisius website.

11. Subsequent to the February 11 group meeting, I conducted individual meetings with each of the eight students, including all five plaintiffs in this case. These meetings took place between Monday, February 11 and Wednesday afternoon, February 13.²

12. To ensure that I had a comprehensive understanding of all the student concerns, I encouraged the students to provide written statements summarizing all their concerns, as well as

¹ All Canisius students are provided at orientation with training and education about our Title IX policy and procedures, their reporting options in the event they are sexually harassed or subjected to sexual misconduct, and available supports. Our Title IX policy is also publicly posted on our website, and has been so posted at all times relevant to this lawsuit. See <https://www.canisius.edu/title-ix-reporting> [last visited July 21, 2022].

² During this time I also received three anonymous complaints through our confidential reporting tool, reporting more generally about Professor Noonan and his allegedly “sexist” behavior. Whether these were submitted by one of the eight students with whom I spoke, or by other persons at the College, is not known.

the concerns of any others. I received these statements on or before Wednesday, February 13—the date my last individual meeting concluded.

13. Given the nature of the verbal reports I had been given at the group meeting, that same day (Monday, February 11), I notified other senior College officials about these student reports. Among the College officials with whom I consulted that day, and over the next several days, were Canisius President John Hurley, Professor Margaret McCarthy (the College's Vice President for Academic Affairs and the College's most senior academic officer), and Professor Peter Schaber, the Dean of the School of Science at Canisius.

The Interim Measures Taken to Ensure the Students' Well-Being

14. While we all realized that the reports would need to be investigated, and we would need to hear Professor Noonan's explanations, if any, as to the reported behaviors of concern, the student reports were serious enough that we determined as of Thursday, February 14 (the day after the student interviews concluded), that Canisius would place Professor Noonan on involuntary leave, relieve him of all teaching and academic responsibilities, and direct that he neither visit campus unescorted, nor contact any Canisius student in any way as the investigation proceeded.

15. That same day, we learned that Professor Noonan was traveling out of the area, and was not scheduled to return to campus for a week—until February 21, 2019.

16. Since Professor Noonan during this week away would not be interacting with our students, we determined to use the intervening time to work with the Departmental leadership in the Biology and Animal Behavior, Ecology and Conservation Departments (Professor Noonan's home departments) to identify alternate instructors for his assigned class for the Spring 2019 semester, to ensure that students would have access to research materials that they developed with Professor Noonan, and to designate alternate faculty members to oversee ongoing research

projects. In the interim, on February 15 Professor Hogan informed the students who had come forward that an investigation into their reports would be ongoing.

17. Professor McCarthy and I met with Professor Noonan on February 21, 2019. At this meeting, we notified him that he was being suspended, effective immediately and for an indefinite period, and that he was prohibited from communicating with students during his suspension. He was also notified that retaliation was prohibited, and any acts of retaliation would merit disciplinary action, including immediate termination. Professor McCarthy's letter to Professor Noonan confirming these arrangements is attached as Exhibit A.

18. In addition, as of February 21 the College locked Professor Noonan out of his Canisius email access and online accounts, so that students would not inadvertently contact him, and emails sent to his account were forwarded to Professors Margulis and Hogan for appropriate handling.

The Steps Taken to Ensure Academic Continuity After the Suspension Occurred

19. Professor Hogan notified the eight students, on February 21, that Professor Noonan had been placed on leave from the College, and that he had been counseled that retaliation was unacceptable.

20. Among many steps taken to minimize the impact of the suspension on the students, I was informed that Professor Malini Suchak arranged to assume lecturing responsibilities for Professor Noonan's BIO 316: Social Organization of Mammals course, and Professor Suchak and Professor Margulis agreed to share duties for overseeing the lab portion of the class. The students in BIO 316 were informed of these arrangements late in the day on February 21, shortly after the meeting with Professor Noonan concluded.

21. Professor Suchak confirmed as well that the students in BIO 316 had been informed that their February 24 field trip to the Toronto Zoo would proceed as scheduled with Professor Margulis leading the trip, and another student group who had committed to a trip with Professor Noonan during the upcoming break would be led by Professor Sara Morris.

22. On February 21, the eight students who had met with me were instructed to meet with either Professor Hogan or Professor Margulis to discuss how to proceed with their ongoing research projects and documentaries. Students who had worked closely with Professor Noonan were assigned alternate mentors to assist with ongoing research during the Spring 2019 semester. Among them, Professor Suchak collaborated with plaintiff Engebrecht, plaintiff Boucher worked with Professor Robin Foster, and other students were assigned to various other alternate mentors.

23. In addition, on February 26, 2019 Professor Margulis notified me that she had met individually with each of Professor Noonan's research students, and they had developed plans to transcribe and video score their various projects, including the "Project Tiger" work related to the January 2019 India trip. Professor Margulis and Professor Joshua Russell thereafter took on the "Project Tiger" work; by early March, they were advising the students with respect to the production of podcasts and related media accounts of their "Project Tiger" work.

24. Professor Christy Hoffman also helped the students prepare for Ignatian Scholarship Day presentations.

25. Finally, I was informed that the Departments' faculty members had divided up responsibility for things such as academic counseling and graduate school recommendations.

The Investigation, and the Absence of any Contact from Professor Noonan After February 14

26. I followed up with the students after Professor Noonan's suspension commenced, to clarify certain points they had made and gather additional information. I also periodically informed the students of our progress with respect to the investigation into their reports about Professor Noonan, although because this was a confidential employment-related matter, I did not delve into the details with them.

27. I met with the students who had brought complaints to me on April 26, 2019, shortly after the College's Easter break. I told them that the investigation, and efforts to bring about a final resolution with respect to their complaints about Professor Noonan, were ongoing. I assured the students that their concerns had been taken very seriously, that we were committed to being fair to all parties involved as we proceeded, and that our goal was to ensure that behavior of the sort reported by the students did not recur.

28. I also reviewed with them the remedial steps taken to date, including Professor Noonan having been placed on leave, and our directive that he not contact any Canisius student during that leave. No student at the meeting claimed that they, or anyone else, had been contacted by Professor Noonan since they had made their reports to me, back in February.

29. At the request of several students, I reported on our progress in weekly e-mail updates, which culminated in a communication on June 11, 2019.³ That communication confirmed that Professor Noonan had retired from the College effective June 1, 2019, and that he would not be returning to the campus as a result of his retirement. I closed by thanking the students for

³ This June 11 communication occurred after the end of the 2018-19 academic year, and after the students had left campus. The Spring 2019 semester ended on Friday, May 10, 2019, and commencement was on Saturday, May 18. See https://www.canisius.edu/sites/default/files/legacy/%252A/2018-2019_undergraduate_catalog_final.pdf [last checked July 21, 2022].

bringing their concerns forward, and by stating, “As always the College and I are here to provide any needed support.” *See* Exhibit B.

30. In response, plaintiff Boucher wrote to me on June 21, 2019, apparently speaking for the group. In pertinent part her e-mail stated, “Thank you for your help along this process. We really appreciate the work you and Canisius College have put in regarding our concerns.” *See* Exhibit C.

31. But in all events, the remedial action taken by Canisius was prompt and effective. At no time after February 14, 2019 did Professor Noonan teach a class, oversee a research project, travel with a student, visit campus unescorted, or to my knowledge have any contact whatsoever with any Canisius student, and I was never informed by any person that any such contact occurred. And his retirement ensured that he would have no further student interactions of any sort at Canisius.

Dated: July 22, 2022

/s/ Linda Walleshauser
Linda Walleshauser